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In re Application of DEBAILLEUL
U.S. Application No.: 10/070,918
Int. Application No.: PCT/BE98/00180
Int. Filing Date: 20 November 1998
Priority Date: 20 November 1997
Attorney Docket No.: 4006-007-30

For: METHOD AND INSTALLATION FOR
SEPARATING CONSTITUENTS OF
USED TYRES

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is in response to applicant's "Petition for Revival of an International Application for Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 13 March 2002.

BACKGROUND

On 20 November 1998, applicant filed international application PCT/BE98/00180, which claimed priority of an earlier Belgium application filed 20 November 1997. A copy of the international application was communicated to the USPTO from the International Bureau on 03 June 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 16 June 1999, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 22 May 2000 (20 May 2000 was a Saturday).

International application PCT/BE98/00180 became abandoned as to the United States at midnight on 22 May 2000 for failure to pay the basic national fee.

On 13 March 2002, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that abandonment of the application was unintentional.

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required basic national fee under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a proper translation of the international application into English and the appropriate processing fee under 37 CFR 1.492(f) must be submitted.¹



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¹ The purported translation filed 13 March 2002 appears to be improper. For example, the published international application contains 16 claims, while the purported translation contains 15 claims. See MPEP 1893.01(d), which states, "The translation must be a translation of the international application as filed with any changes which have been properly accepted under PCT Rule 26 or any rectifications which have been properly accepted under PCT Rule 91. Amendments, even those considered to be minor or to not include new matter, may not be incorporated into the translation."